

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF MONTANA

In the matter of the amendment ) NOTICE OF PUBLIC HEARING ON  
of ARM 17.56.101, 17.56.1301, ) PROPOSED AMENDMENT  
17.56.1303, 17.56.1304, )  
17.56.1401, 17.56.1404 and ) (UNDERGROUND STORAGE TANKS)  
17.56.1410 pertaining to the )  
installation of underground )  
storage tanks )

TO: All Concerned Persons

1. On December 22, 2004, at 9:00 a.m., the Department of Environmental Quality will hold a public hearing in Room 239/240 of the Metcalf Building, 1520 East Sixth Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Department no later than 5:00 p.m., December 13, 2004, to advise us of the nature of the accommodation that you need. Please contact Lisa Tucker, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-3840; fax (406) 444-1901; or email ltucker@state.mt.us.

3. The rules proposed to be amended provide as follows, deleted matter interlined, new matter underlined:

17.56.101 DEFINITIONS (1) through (46) remain the same.  
(47) "Petroleum storage tank" or "PST" means a tank that contains petroleum or petroleum products and that is:  
(a) through (c) remain the same.  
(d) aboveground pipes associated with tanks under ~~(45)~~(47)(b) and (c), except that pipelines regulated under the following laws are excluded:  
(i) remains the same.  
(ii) state law comparable to the provisions of law referred to in ~~(45)~~(47)(d)(i), if the facility is intrastate.  
(48) through (69) remain the same.

AUTH: 75-11-319, 75-11-505, MCA  
IMP: 75-11-302, 75-11-319, 75-11-505, MCA

REASON: This proposed amendment is necessary to correct an internal reference citation.

17.56.1301 DEFINITIONS (1) through (5) remain the same.  
(6) "Major installation" means the installation of underground storage tanks, piping, vapor or ground water monitoring wells, corrosion protection, interstitial tank probes

and sensors and corrosion protection system anodes. Repair or modification of the above-listed items, and activities not defined as a "minor installation" are also considered major installations.

(7) "Minor installation" means the installation of replacement spill buckets, offset sleeves on tank risers, boots on piping flex connectors, ball-float vent valves in existing risers, drop-tubes, drop-tube shut-off valves and auto dialers, and the extension or replacement of vent standpipes. Minor installation also includes the decommissioning of ground water and vapor monitoring wells.

(6) and (7) remain the same, but are renumbered (8) and (9).

AUTH: 75-11-204, 75-11-505, MCA

IMP: 75-11-204, 75-11-209, 75-11-210, 75-11-212, 75-11-509, MCA

REASON: The Legislative Audit Committee recommended that the installation permit review process for certain less-involved underground storage tank installations and modifications be streamlined. The proposed amendments provide for two distinct review tracks. Minor installations and closures correspond to less environmental risk and less technical review than major modifications and installations. Technical staff other than the staff engineer can complete these less technical reviews, and first-in, first-out review of the applications can be maintained within the two tracks. Under the proposed amendments, review of minor installation permits and closure permits will no longer be hindered by review of more complicated installation permits. In order to implement the audit recommendation, the proposed amendments are necessary to identify the types of activities subject to the separate process.

17.56.1303 INSTALLATION AND CLOSURE PERMIT REQUIREMENT--APPLICATION (1) remains the same.

(2) Except as provided in ~~(5) of this rule~~ (6):

(a) a completed application for a major installation permit must be filed by the permit applicant on a form provided by the department at least 30 days prior to the proposed date of installation or closure; and

(b) a completed application for a minor installation or closure permit must be filed by the permit applicant on a form provided by the department at least 20 days prior to the proposed date of installation or closure.

(3) If the installation or closure is to be conducted by:

(a) and (b) remain the same.

(3) and (4) remain the same, but are renumbered (4) and (5).

~~(5)~~ (6) The department, in its discretion, may waive the 30-day requirement in (2) ~~of this rule~~ if the applicant makes a sufficient showing of unforeseen and unforeseeable circumstances and if the applicant does not qualify for an emergency permit under ARM 17.56.1306.

AUTH: 75-11-204, MCA

IMP: 75-11-204, 75-11-209, 75-11-212, MCA

REASON: The proposed amendment is necessary to execute the Legislative Audit Committee's recommendation that certain less-complicated underground storage tank installations and modifications be reviewed by the Department under a shorter timeframe.

17.56.1304 PERMIT APPLICATION REVIEW FEES (1) and (2) remain the same.

(3) Subject to the limitation in (4), for the installation or closure of an underground storage tank system, the permit applicant shall pay the following permit application review fees:

~~(a) tank installations or closures .\$.50/permit plus \$.01/gallon of tank capacity~~

~~(b) piping only . . . . . \$25/50 feet (\$25 min, \$200 max)~~

~~(c) other modifications and repairs only . . . . . \$50~~

(a) any application, or group of applications, proposing work at a facility that includes the installation or closure of an underground storage tank . . . . . \$100/permit plus \$0.02/gallon of tank capacity;

(b) any application solely for a minor installation. .\$.50;

(c) any application solely for piping installation and/or closure:

(i) greater than 50 feet . . . . . \$100;

or

(ii) 50 feet or less . . . . . \$ 50;

and

(d) any combination of applications in (3)(b) and (c), or any other permit application . . . . . \$100.

(4) To determine whether a proposed piping installation or closure exceeds the 50-foot threshold in (3)(c), piping length shall be calculated as the sum of the linear feet of all pipe proposed to be installed and closed.

(4) and (5) remain the same, but are renumbered (5) and (6).

AUTH: 75-11-204, MCA

IMP: 75-11-204, 75-11-209, 75-11-212, MCA

REASON: The proposed rule amendment is necessary to more clearly delineate departmental review services, the costs of those services, and to adequately fund the UST permitting program. The Department receives many permit applications with incorrect fees enclosed. The proposed amendments clarify the amount of fees due for each type of review. Fees are restructured corresponding to the newly delineated Department review services. Further, in fiscal year 2003 program expenses were approximately \$98,000, but revenue from permit and license fees amounted to only \$42,200. Grants from EPA and other fees have been used to fill in the gap, but over time the EPA grants have not kept pace and the budgetary gap has increased. The

proposed permit fee increase would not fully fund the permitting program, but would reduce the drain on revenue sources whose purposes are more appropriately spent in other UST program areas. This increase will impact approximately 250 owners per year resulting in an aggregate increase of \$13,400 in fees.

17.56.1401 GENERAL LICENSE REQUIREMENTS; DEFINITIONS

(1) Except as provided in 75-11-213(7) and 75-11-510(2), MCA, A a person may not install, close, or inspect an underground storage tank system unless that individual has a valid license issued by the department under 75-11-210 or 75-11-214, MCA, and this subchapter.

(2) through (7) remain the same.

AUTH: 75-11-204, 75-11-505, MCA

IMP: 75-11-204, 75-11-209, 75-11-210, 75-11-212, 75-11-214, 75-11-509, MCA

REASON: This amendment is necessary to clear up a conflict between the existing rule and the cited statutory provision. As written, the current rule would seem to conflict with the statutory provision that allows the Department to inspect UST facilities to ensure compliance with UST laws and rules. The proposed amendment would eliminate any conflict between the law and the rule.

17.56.1404 LICENSE FEES (1) An individual applying for an underground storage tank installer's license shall pay to the department the applicable fee(s) provided in (2) ~~of this rule~~. All fees are non-refundable.

(2) Licensing fees are as follows:

(a) remains the same.

(b) annual license renewal fee . . . . . \$ ~~50~~ 100

(c) through (5) remain the same.

AUTH: 75-11-204, MCA

IMP: 75-11-204, 75-11-210, 75-11-211, 75-11-509, MCA

REASON: The proposed amendment is necessary to more adequately fund the UST permitting and licensing program. In FY03, program expenses were approximately \$98,000, but revenue from permit and license fees amounted to only \$42,200. Grants from EPA and other fees have been used to fill in the gap, but over time the EPA grants have not kept pace and the budgetary gap has increased. The proposed license fee increase would not fully fund the permitting and licensing program, but would reduce the drain on revenue sources whose purposes are more appropriately spent in other UST program areas. This increase will impact approximately 50 licensed individuals per year resulting in an aggregate increase of \$2,500 in fees per year.

17.56.1410 LICENSEE RECORD KEEPING (1) Within 30 days of completion of an underground storage tank system installation or closure, a licensed installer shall submit to the department and

to the owner or operator:

~~(a) one copy of the completed department inspection checklist, or one copy of the completed manufacturer's installation checklist;~~

(b) through (d) remain the same, but are renumbered (a) through (c).

(2) remains the same.

AUTH: 75-11-204, MCA

IMP: 75-11-204, 75-11-210, 75-11-211, MCA

REASON: The Department is eliminating requirements for submittal of the inspection checklist because it is not critical to environmental protection. Verifying completion of the inspection checklist was of value when the program was training installers to conduct work in accordance with industry-recognized best practices. The need for such oversight has substantially decreased. The checklist remains integral to product warranty validation, but the Department believes that those concerns are best left to the private sector.

4. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to Kirsten Bowers, Remediation Division, Department of Environmental Quality, P.O. Box 200901, Helena, Montana 59620-0901; by fax (406) 444-1902; or by email to kbowers@state.mt.us, no later than December 30, 2004. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. Keith Jones, attorney, has been designated to preside over and conduct the hearing.

6. The Department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to Elois Johnson, Paralegal, Legal Unit, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901, faxed to the office at (406) 444-4386, emailed to ejohnson@state.mt.us or may be made by completing a request form at any rules hearing held by the Department.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

James M. Madden  
JAMES M. MADDEN  
Rule Reviewer

BY: Jan P. Sensibaugh  
JAN P. SENSIBAUGH, Director

Certified to the Secretary of State, November 22, 2004.